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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Donald R. Huffman,
et al.

Examiner: S. Kalinchak

Serial No.: 580,246

Art Unit: 1103

Filed: October 22, 1991

Docket: 7913Z

For: FORM OF CARBON

Dated: March 1, 1993

Hon. Commissioner of Patents
and Trademarks
Washington, DC 20231

DECLARATION OF MARK J. COHEN

Sir:

Mark J. Cohen declares and says as follows:

1. I am an attorney of record in the above-identified application and I have been prosecuting the claimed subject matter therein before the United States Patent and Trademark Office.

2. An Office Action dated August 27, 1992 was issued relative to the above-identified case. One of the issues raised in the Office Action was that the claimed subject matter lacked patentable utility under 35 U.S.C. §101.

3. The present application lists several utilities for the subject matter therein. One of the utilities enumerated therein is that the claimed subject matter is useful as a paint pigment.

4. I contacted Dr. Huffman and asked him to make a painting using C₆₀ and/or C₇₀ as the paint pigment.

5. In response to my request, I received the two paintings attached hereto as Exhibits 1 and 2.

6. Upon information and belief, these drawings were painted by Dr. Huffman, who courteously signed each of the paintings.

7. Upon information and belief, the paints were made by dissolving C₆₀ and C₇₀ in organic solution.

8. In one painting, entitled SELF PORTRAIT of a BUCKYBALL, upon information and belief, the " C_{60} atom" portrayed therein were painted with C_{70} , the carbon atoms connected, thereto was painted with graphite and the spaces between the carbon atoms were painted with C_{60} . Thus, when dried the area painted with C_{60} is yellowish to brownish, while the area painted with C_{70} is purplish in color.

9. In the other painting entitled PICACHO PEAK ARIZONA, upon information and belief, the mountain was painted with C_{60} which is yellowish to brownish in color when dried. The remainder of the color in this picture was painted with C_{70} which has a purplish hue when dried.

10. Thus, as shown in the two exhibits when dried, both the C_{60} and C_{70} exhibit color. Furthermore, the color they exhibit is different. More specifically, when dried, the C_{60} becomes yellow to brown in color and the C_{70} give the faintly purplish hue.

11. Thus, these paintings establish that C_{60} and C_{70} are useful as paint pigments.

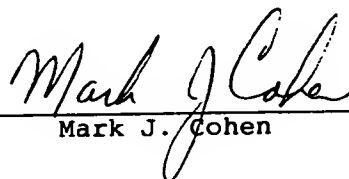
12. Consequently, these drawings support at least one utility ascribed to the products in the present application.

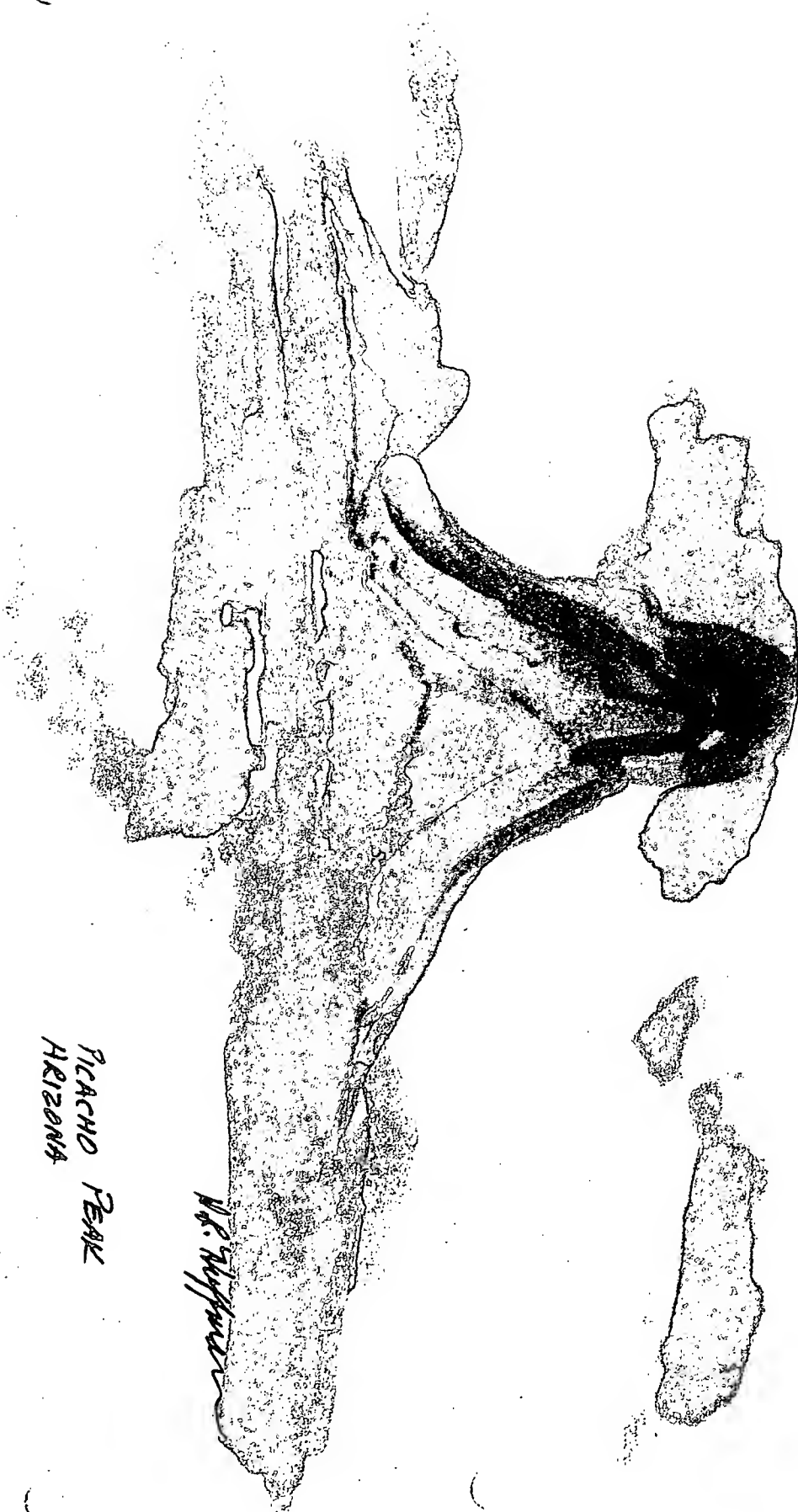
13. Therefore, the present invention has the requisite patentable utility pursuant to 35 U.S.C. §101.

14. The undersigned declares further that all statements made herein of his own knowledge are true and that all statement made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made

are punishable by fine or imprisonment both under Section 1001 of Title 18 of the United States code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: March 1, 1993

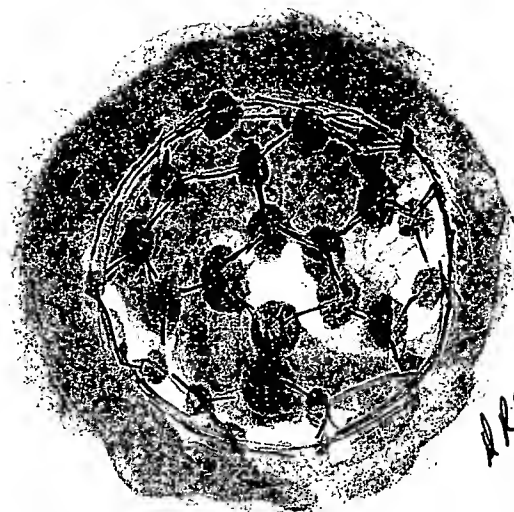

Mark J. Cohen



W. R. M. M. M.

PICACHO PEAK
ARIZONA

(medium - Good - 1920)



R. Hoffmann

SELF PORTRAIT OF A BUCKYBALL
(in C₆₀, C₇₀, & graphite ink.)